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EXAMINER

VO, TUNG T

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/823,508	<b>Applicant(s)</b> FERNANDEZ ET AL.	
	<b>Examiner</b> Tung Vo	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 74-98 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 74-98 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 74, 90, and 95 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not exactly disclose “*comparing the image of the buyer to a stored image of the buyer*”.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 74-79 and 82-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wren (US 6,055,514).

Re claim 74, Wren teaches a method, comprising: selecting a fixed vendor (12 of fig. 1, note at least one central facility as marketer, col. 11, lines 35-37, 54-55, is considered as fixed

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vendor, and the customer is to select the at least central facility (12 of fig. 1), col. 11, lines 59-63) in response to a first transaction message (col. 11, lines 59-63) received from a mobile buyer unit (14 of fig. 1, note the remote facility is sited at given a remote location where potential customers are located whether stationary or portable; col. 7, lines 13-17) configured to communicate with a network (40 and 42 of fig. 1, col. 12, lines 35-60);

recognizing an image of a buyer associated with the mobile buyer unit (col. 12, lines 30-32, note other means to verify identification of the customer can be used comprising magnetically encoded badges or cards, or the use of eye or finger scanning devices) by comparing the image of the buyer to a stored image of the buyer (Note the use of eye or finger scanning devices are well known to perform the comparison the image of the customer with a stored image of the customer to verify identification of the customer, recognizing an image of the customer, See Bonneau, Jr., fig. 3 for support well known device), wherein a visual analyzer module (The use of eye or finger scanning devices; col. 12, lines 30-32) recognizes the image of the buyer using at least one of neural-based software or adaptive learning software (The use of eye or finger scanning devices are well known device to recognize an image a person, which obvious includes conventional and suitable software, See Bonneau, Jr.(US 5,581,630), fig. 5, for support well known software); and

sending at least a portion of the first transaction message to the fixed vendor (col. 14, lines 5-28) in response to the recognizing the image of the buyer (other input device would obviously be one of the use of eye or finger scanning devices) .

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Re claim 75, Wren further teaches sending the image of the buyer and an image recognition confirmation to the fixed vendor (*col. 13, lines 9-48, the customers enable two way visual contacts with the central facility using other devices such as videophone*).

Re claim 76, Wren further teaches sending, to the mobile buyer unit, a second transaction message associated with the fixed vendor (col. 13, lines 9-31).

Re claim 77, Wren further teaches wherein the first transaction message comprises an offer to buy at least one of a good or a service, and wherein the second transaction message comprises at least one of a counter-offer or an acceptance to sell at least one of the good or the service (col. 13, lines 9-31, col. 14, lines 5-28).

Re claim 78, Wren further teaches further comprising facilitating a transaction between the mobile buyer unit and the fixed vendor in response to the first transaction message and the second transaction message (14 and 12 of fig. 1, col. 14, lines 5-28).

Re claim 79, Wren further teaches selecting the fixed vendor in response to the fixed vendor providing at least one of a vendor service or a vendor product that matches a mobile buyer interest (22 of fig. 1).

Re claim 82, Wren further teaches wherein the second transaction message comprises at least one of a fixed vendor real-time inventory listing, fixed vendor service information, fixed vendor good information, a fixed vendor location, directions to the fixed vendor location, or location-based pricing of at least one of a vendor product or a vendor service (22 of fig. 1, note lists of products available and in general any audio or visual information a customer might wish to know including quote, price, or any information about goods or services other than quote, binder, or price).

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Re claim 83, Wren further teaches wherein the mobile buyer unit is a cellular phone configured to communicate with the network via a wireless communicator (videophone would obviously be considered as a cellular phone).

Re claim 84, Wren teaches wherein the image of the buyer is a digital image that comprises at least one of an embedded watermark or a digital certificate configured to facilitate security of the digital image (*col. 12, lines 30-32, encoded badges or cards obviously includes a digital image and a digital certificate for security purposes*).

Re claim 85, Wren further teaches wherein the mobile buyer unit comprises a detector configured to record the image of the buyer (Videophone, camera, col. 15, lines 55-58)).

Re claim 86, Wren further teaches delivering at least one a solicited product, a solicited service, an unsolicited product, or an unsolicited service to the mobile buyer unit in an electronic format in response to the sending at least the portion of the first transaction message to the fixed vendor (12 and 14 of fig. 1).

Re claim 87, Wren further teaches delivering an electronic document to the mobile buyer unit in response to the sending at least the portion of the first transaction message to the fixed vendor (*28 of fig. 1, mail bag or other means enabling each central communications facility to generate and transmit to the remote facility transaction necessary contracts and documents for any of financing, paying, and insuring, at prices, so negotiated, the competing goods and services*).

Re claim 88, Wren further teaches wherein the image of the buyer is received from the mobile buyer unit (videophone, col. 13).

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Re claim 89, Wren further teaches wherein the image of the buyer is received from a fixed detector distinct from the mobile buyer unit (camera is placed in each system, col. 15, lines 55-58).

Re claim 90, Wren teaches a controller comprising: a processor (14 of fig. 1) configured to utilize software (18 of fig. 1, the computer has software) to select a fixed vendor (12 of fig. 1) in response to a first transaction message received from a mobile buyer unit (customer are portable, videophone) configured to communicate with a network (40 and 42 of fig. 1);

a visual analyzer module (*The use of eye or finger scanning devices; col. 12, lines 30-32, obviously includes a module for comparison*) configured to recognize an image of a buyer using at least one of neural-based software or adaptive learning software (*The use of eye or finger scanning devices are well known device to recognize an image a person, which obvious includes conventional and suitable software, See Bonneau, Jr.(US 5,581,630), fig. 5, for support well known software*), wherein the visual analyzer module is configured to recognize the image of the buyer by comparing the image of the buyer to a stored image of the buyer (*Note the use of eye or finger scanning devices are well known to perform the comparison the image of the customer with a stored image of the customer to verify identification of the customer, recognizing an image of the customer, See Bonneau, Jr., fig. 3 for support well known device*); and

a communicator (40 and 42 of fig. 1) configured to send at least a portion of the first transaction message to the fixed vendor (*col. 11, lines 55-63, col. 13, lines 9-31, col. 14, line 5-28*) in response to the visual analyzer module recognizing the image of the buyer.

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Re claim 91, Wren further teaches wherein the image of the buyer comprises a still image of the buyer (*Note the use of eye or finger scanning devices enable to capture a still image of the buyer, the video phone takes the picture of the buyer*).

Re claim 92, Wren further teaches wherein the image of the buyer comprises a video image of the buyer (the camera enables to capture a video image of the buyer).

Re claim 93, Wren wherein the video image of the buyer comprises an audio component, and wherein the visual analyzer module is further configured to generate audio recognition information associated with the video image of the buyer (col. 15, lines 1-16, voice recognition).

Re claim 94, Wren further teaches wherein the communicator is configured to receive the image of the buyer from a fixed detector configured to observe the buyer (col. 15, lines 55-58, the camera is placed on each system to capture the buyer image).

Re claims 95 and 96, see analysis in claims 90-93.

Re claim 97, Wren further discloses wherein the mobile buyer unit is a cellular phone and the buyer is a cellular phone user (col. 13, lines 10-45, videophone or telephone would be a cellular phone).

5. Claims 80, 81, and 98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wren (US 6,055,514).

Re claims 80, 81, and 98, Wren further teaches the remote facilities (14 of fig. 1) can even be portable so that for example they can be used at trade shows such as car shows permitting attendees to obtain more specific information about the products they desire and to



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execute their purchase and obtain financing. This disclosure fairly suggests that the remote facilities enable to move one place to another place.

However, Wren does not particularly teach determining a first location of the mobile buyer unit and selecting the fixed vendor in response to at least one of the fixed vendor being near the first location of the mobile buyer unit, or the fixed vendor being near a second location to which the mobile buyer unit will be moving; selecting the fixed vendor in response to at least one of a pattern of mobile buyer unit movement, a previous mobile buyer unit location, or a previous mobile buyer unit transaction message; and a locator configured to facilitate a determination of a cellular phone user location as claimed.

Fan teaches determining a first location (18 of fig. 2) of the mobile buyer unit (1 of fig. 1) and selecting the fixed vendor in response to at least one of the fixed vendor being near the first location of the mobile buyer unit, or the fixed vendor being near a second location to which the mobile buyer unit will be moving (See figs. 12 and 13, selecting gas station nearby); selecting the fixed vendor in response to at least one of a pattern of mobile buyer unit movement (fig. 13), a previous mobile buyer unit location, or a previous mobile buyer unit transaction message; a locator configured to facilitate a determination of a cellular phone user location (1 of fig. 1, fig. 3).

Wren further suggests that many modifications and variations are possible in light of the above described for the mobile costumer enables to select services and products of interests. Fan further suggests that many modification and variations can be made for benefits of determining the location of the mobile unit for the mobile buyer to conveniently select the product and service. Since Wren and Fan both suggest the modifications, so it would have been obvious to

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one of ordinary skill in the art to modify the teachings of Fan into the disclosure of Wren to determine the location of the mobile unit for the mobile buyer to easily choose the products and services nearby.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung Vo whose telephone number is 571-272-7340. The examiner can normally be reached on Monday-Wednesday, Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tung Vo/  
Primary Examiner, Art Unit 2621